

## **EXHIBIT C**

07-ES-220 MLS  
UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
ATLANTIC CASUALTY INSURANCE COMPANY,

Case No. 07 CV 4098

Plaintiff,

-against-

**VERIFIED ANSWER**

FORTHRIGHT CONSTRUCTION, INC.,  
WONDER WORKS CONSTRUCTION CORP.,  
VASILIS AFTOUSMIS AND CONSTANTIA  
AFTOUSMIS,

Defendants.  
-----X

The defendant, WONDER WORKS CONSTRUCTION CORP., by its attorneys, McCABE, COLLINS, McGEOUGH & FOWLER, LLP., answering the Complaint herein, states upon information and belief:

1. Defendant denies having knowledge or information sufficient to form a belief as to the allegations set forth in paragraphs marked "4", "11", "15", "17", "18", "23", "25", "26", "27", and "28" of the plaintiff's Complaint.

2. Defendant denies the allegations set forth in paragraphs marked "5", "6", "9", "10", "12", "13" and "24" and each and every part thereof.

**AS TO THE FIRST CAUSE OF ACTION**

3. Defendant repeats and reiterates each and every denial in answer to paragraphs "1" through "28" in the Complaint, as if more particularly hereinafter set forth in answer to paragraph numbered "29", and each and every part thereof.

4. Defendant denies the allegations set forth in paragraphs marked "30 and "32", and each and every part thereof.

**AS TO THE SECOND CAUSE OF ACTION**

5. Defendant repeats and reiterates each and every denial in answer to paragraphs "1" through "32" in the Complaint, as if more particularly hereinafter set forth in answer to paragraph numbered "33", and each and every part thereof.

6. Defendant denies having knowledge or information sufficient to form a belief as to the allegations set forth in paragraphs marked "34" of the plaintiff's Complaint.

7. Defendant denies the allegations set forth in paragraph marked "31" of the plaintiff's Complaint and each and every part thereof.

8. Defendant denies the allegations set forth in paragraphs marked "35", "36", "37", "38" and "39" of the plaintiff's Complaint and each and every part thereof.

**AS AND FOR A FIRST AFFIRMATIVE DEFENSE**

9. Upon information and belief, plaintiff failed to comply with the terms and conditions of the subject policies of insurance.

10. The Court lacks subject matter jurisdiction as neither diversity exists nor does the amount in controversy exceed \$75,000.

WHEREFORE, defendant, WONDER WORKS CONSTRUCTION CORP., demands judgment dismissing the Complaint herein, together with the costs, disbursements and expenses of this action, together with attorney fees, costs and disbursements of the action.

Dated: Carle Place, New York  
June 29, 2007

Yours, etc.

McCABE, COLLINS, McGEOUGH & FOWLER, LLP.

BY: 

MICHAEL L. SMAR  
Attorneys for Defendant, WONDER WORKS  
346 Westbury Avenue - P.O. Box 9000  
Carle Place, New York 11514  
(516) 741-6266  
File No.: 07-ES-220 MLS

TO: NIXON PEABODY, LLP.  
Attorneys for Plaintiffs  
437 Madison Avenue  
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FORTHRIGHT CONSTRUCTION, INC.  
2240 McDonald Avenue  
Brooklyn, New York 11223

ATTORNEY VERIFICATION

STATE OF NEW YORK     )  
                                  ) ss.:  
COUNTY OF NASSAU     )

The undersigned, **MICHAEL L. SMAR**, an attorney admitted to practice in the Courts of the State of New York, shows:

That affirmant has been designated as the attorney of record by the defendant, WONDER WORKS CONSTRUCTION CORP., in the within action; that affirmant has read the foregoing Verified Answer and knows the contents thereof; that the same is true to the affirmant's knowledge, except as to the matters therein stated to be alleged on information and belief; and that as to those matters, affirmant believes it to be true.

The grounds of belief as to all matters not stated upon deponent's knowledge are documents, correspondence and records maintained in your deponent's files and conversations and conferences had with the defendant.

The undersigned affirms that the foregoing statements are true under the penalties of perjury.

Dated: Carle Place, New York  
June 29, 2007

  
\_\_\_\_\_  
MICHAEL L. SMAR

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
ATLANTIC CASUALTY INSURANCE COMPANY

Plaintiff,

-against-

FORTHRIGHT CONSTRUCTION, INC.,  
WONDERWORKS CONSTRUCTION CORP.,  
VASILIS AFTOUSMIS and CONSTANTIA  
AFTOUSMIS

Defendants.  
-----X

Docket Number: 07 CIV  
4098

**ANSWER TO UNVERIFIED  
COMPLAINT FOR  
DECLARATORY  
JUDGMENT AND MONEY  
JUDGMENT**

Hon. Judge Chin

Defendant, Forthright Construction Inc., (Hereinafter "Defendant") by its attorneys, The Law Offices of William Pager, as and for its answer to the Unverified Complaint for Declaratory Judgment and Money Judgment herein, respectfully alleges the following upon information and belief:

1. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraphs "5", "7", "14", "17", "18", "24", "31" and "36" of the complaint, except admits that Atlantic Casualty Insurance Company transacts business in the State of New York.
2. Admits the allegations contained in paragraphs "15" and "16" of the complaint.
3. Denies the allegations contained in paragraphs "6", "8", "9", "10", "11", "12" and "13" of the complaint and refers all questions of the law to the Court for determination at the time of trial or hearing.
4. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraphs "1", "2", "3", "19", "20", "21" and "22" of the complaint and refers all questions as to the allegations made in the underlying action of *Vasilis Aftousmis and Constantia Aftousmis v. Wonder Works Construction Corp. and*

*Forthright Construction, Inc.*, Index No. 102479/07 Supreme Court of the State of New York, County of New York, filed on or about February 22, 2007 to the Court for determination at the time of trial or hearing.

5. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraphs "25", "26", "27" and "28" of the complaint and refers all questions as to the contents of the Insurance Contract to the Court for determination at the time of trial or hearing.
6. Denies each of the allegations contained in paragraphs "4", "23", "30", "32", "34", "35", "37", "38" and "39" of the complaint.
7. Repeats and reiterates each of the foregoing paragraphs as to the allegations contained in paragraphs "29" and "33" of the complaint as if fully set forth herein.

**AS AND FOR A FIRST AFFIRMATIVE DEFENSE**

The complaint fails to state a cause of action against the answering Defendant

**AS AND FOR A SECOND AFFIRMATIVE DEFENSE**

The Court lacks jurisdiction over the answering defendant.

**AS AND FOR A THIRD AFFIRMATIVE DEFENSE**

Plaintiff did not assert a disclaimer of coverage within the required time frame.

**AS AND FOR A FOURTH AFFIRMATIVE DEFENSE**

Plaintiff did not assert a disclaimer of coverage with the required particularity.

**AS AND FOR A FIFTH AFFIRMATIVE DEFENSE**

The Complaint must be dismissed as the plaintiff has failed to join a necessary party.

**AS AND FOR A SIXTH AFFIRMATIVE DEFENSE**

The answering defendant, not being fully advised as to all the facts and circumstances surrounding the incident(s) and/or event(s) complained of, hereby asserts and reserves unto itself the defenses of accord and satisfaction, arbitration and award, assumption of risk, contributory negligence, discharge in bankruptcy, duress, estoppel, failure of consideration, fraud, illegality, injury by

fellow servant, laches, license, payment, release, res judicata, statute of frauds, statute of limitations, waiver, and any other matter constituting an avoidance or affirmative defense which further investigation of the matter may prove applicable herein.

**WHEREFORE**, the defendant Forthright Construction Inc., demands the following relief:

1. Judgment dismissing the Complaint
2. Costs and disbursements
3. Attorney's fees
4. Any other relief to which it may be justly entitled.

Dated: Brooklyn, New York  
June 22, 2007

Yours, etc.

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WILLIAM PAGER (WP 0777)  
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